IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 402 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SANTOSHKUMAR @ RAJU BABULAL GUPTA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 402 of 2004

MR HR PRAJAPATI for Petitioner No. 1

MR AD OZA, LD. GOVT.PLEADER for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 07/07/2004

ORAL JUDGEMENT

1. By filing this petition, the petitioner-detenu has challenged the detention order passed against him by the detaining authority, by its order dated 26.12.2003 under the provisions of the Gujarat Prevention of

Anti-social Activities Act, 1985 ("PASA", for short). The petitioner is detained as a "bootlegger" under PASA. Along with the order, the petitioner was also served with the grounds of detention.

2. In the grounds of detention, there is a reference about two criminal cases registered against the petitioner. Both these cases are under the Bombay Prohibition Act. It is alleged that the petitioner is dealing in imported foreign liquor and is transporting the same. After recording subjective satisfaction, the detaining authority has detained him under PASA. The said detention order is challenged by the petitioner by way of this petition.

3. Learned advocate for the petitioner submitted that there is only two criminal cases registered against him under the Bombay Prohibition Act, and that it cannot be said that the petitioner has violated any public order by committing offence under the Bombay Prohibition Act.

4. Learned advocate for the petitioner has further submitted that there are certain documents at pages No.36, 45 & 63, and part of some lines in the aforesaid documents is not legible. The said documents are the documents, on which the detaining authority also relied upon for passing the detention order. The said fact is not in dispute. In one of the documents at page 63, some lines are cut-off, and even at page 36 some lines are not readable. This fact is not in dispute because the documents itself are placed on record.

5. Since the authority has not provided legible copies of all the documents to the petitioner-detenu, his right to make effective representation is violated. In view of the same, the petition is, therefore, allowed on the aforesaid point that some of the documents are not legible.

6. Considering the said aspect, this petition is allowed. The order of detention dated 26.12.2003 is quashed and set aside. The detenu, Santoshkumar Raju Babulal Gupta is ordered to be set at liberty forthwith, if he is not required in connection with any other case.

7. At this stage, Mr.Prajapati, learned advocate for the petitioner, after taking instructions made a statement that, in order to see that petitioner can improve himself and can improve his conduct, he will not enter into Bapunagar City Police Station area as well as

Mehmdabad Taluka, wherein one of the criminal cases is registered against him, upto 15th September, 2004, unless he is required to appear in any other case for attending the court. Mr.Prajapati further submitted that he is making the statement after taking instructions from the detenu himself. The Concerned Police Officer may also monitor this aspect so that the statement of the petitioner can be effectively taken care of by the authorities. Rule is made absolute.

(P.B. Majmudar, J.)

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